

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



LAWRENCE RUSSELL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

18-CR-105
ORDER

The pro se petitioner, Lawrence Russell, filed a motion to set aside or correct his sentence under 28 U.S.C. § 2255. Docket Item 29. As he alleges in more detail, Russell claims that his conviction in this Court was unconstitutionally or unlawfully obtained. *Id.*

ORDER

IT IS HEREBY ORDERED, in accordance with Rules 4 and 5 of the Rules Governing § 2254 Cases in the United States District Courts, that the respondent shall file and serve an answer to the petition no later than November 1, 2019. The answer shall respond to the allegations in the petition and shall state whether the petitioner has used any other available federal remedies including any prior post-conviction motions under these rules or those existing before the adoption of the present rules. Further, the answer shall state whether an evidentiary hearing was afforded the petitioner in a federal court, whether the petitioner appealed the conviction, and what ruling, if any, the United States Court of Appeals has made on the appeal; and it is further

ORDERED that, in addition to his answer, the respondent also file and serve by the above date a memorandum of law addressing each of the issues raised in the petition and including citations of relevant supporting authority; and it is further

ORDERED that within twenty (20) days of receipt of the answer, the petitioner may file a written reply to the answer and memorandum of law; and it is further

ORDERED that within twenty (20) days of the date this order is filed with the Clerk of Court, the respondent may file a motion for a more definite statement or a motion to dismiss the petition, accompanied by appropriate exhibits which demonstrate that an answer to the petition is unnecessary. The timely filing of such motion shall extend the time for filing an answer for fourteen (14) days, but the failure of this Court to act upon the motion within that time shall not further extend the time for filing an answer; and it is further

ORDERED that the Clerk of Court is directed to serve a copy of the petition, together with a copy of this order, upon the United States Attorney for the Western District of New York, 138 Delaware Avenue, Buffalo, New York 14202; and it is further

ORDERED that all docketing for this action shall be made in the related criminal action 18-CR-105.

THE PETITIONER MUST FORWARD A COPY OF ALL FUTURE PAPERS
AND CORRESPONDENCE TO THE UNITED STATES ATTORNEY.

SO ORDERED.

Dated: September 17, 2019
Buffalo, New York



LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE